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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92050920
Party	Plaintiff Intellect Technical Solutions, Inc.
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Date	08/15/2011
Attachments	Response to Sonis Motion for Extension of Time.pdf (4 pages)(26381 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re: Registration No. 3,009,990
Trademark: ENTELLECT
Registered November 1, 2005

INTELLECT TECHNICAL SOLUTIONS, INC.

Petitioner,

v.

MILENA SONI,

Respondent.

Cancellation No.: 92050920

**PETITIONER'S RESPONSE TO RESPONDENT'S MOTION FOR EXTENSION OF
TIME TO FILE RESPONDENT'S TRIAL BRIEF**

Petitioner, Intellect Technical Solutions, Inc., by and through its undersigned counsel, responds to Respondent's Motion for Extension of Time to File Respondent's Trial Brief ("Respondent's Motion"), and states as follows:

Petitioner's trial brief was timely filed on July 15, 2011. Respondent's trial brief is optional and the Board may decide the case on the merits without a trial brief by the party in the position of defendant. TBMP 801.02(b). However, if Respondent chooses to file a trial brief, it is due "not later than 30 days after the due date of the plaintiff's main brief." *Id.* As Petitioner's main brief was due and filed on July 15, 2011, Respondent's brief, if any, would therefore be due no later than Monday, August 15, 2011. *Id.*

On the afternoon of August 12 (the Friday before the Respondent's Monday filing deadline), Respondent's counsel attempted to contact Petitioner's counsel regarding a last minute extension of the filing deadline. No explanation for the need for the extension was provided other than the statement that Mr. Surjit Soni would be out of Los Angeles and that Mr. Ronald Perez had a family commitment over the weekend following the filing deadline. No attempt was made to contact Petitioner's counsel regarding an extension during the weeks prior to the Friday afternoon before the Monday filing deadline.

In the evening of July 12, before Petitioner's counsel had been able to respond to Respondent's counsel, Petitioner's counsel received an email notice from Respondent's counsel that Respondent's Motion had been filed. Respondent's Motion requests a 30-day extension of time, which would double the amount of time allotted to Respondent under the Rules. TBMP § 8.02(b).

The standard for granting a motion for extension of time made prior to the expiration of the prescribed period of time is good cause. TBMP § 509.01(a). A motion to extend, however, "must set forth with particularity the facts said to constitute good cause for the requested extension; mere conclusory allegations lacking in factual detail are not sufficient." *Id.* Further, "a party moving to extend time must demonstrate that the requested extension of time is not necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor." *Id.*

In this case, Respondent has not set forth any facts showing good cause other than the conclusory statement that one of the attorneys involved in the matter will be "out of Los Angeles." Notably, Respondent does not allege that the attorney will be without access to communications during the trip. Nor does Respondent allege that the trip was unplanned or

otherwise offer any explanation as to why she waited until the afternoon of the Friday before the Monday due date to seek an extension of time. *See Baron Phillipe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 U.S.P.Q.2d 1848, 1851 (TTAB 2000) (denying a motion for extension of time where the party “chose not to seek opposers’ agreement to a stipulated extension and deliberately waited until the deadline before moving to extend”).

Because Respondent has not shown good cause for an extension of time, and appears to have deliberately waited until the last moment to seek consent for an extension, Petitioner respectfully argues that Respondent’s Motion should be denied. In the alternative, should an extension be granted, Petitioner respectfully argues that a 30-day extension doubling the time allotted to Respondent to file her optional response brief is not warranted, and that an extension of no more than ten days should be granted. Petitioner also notes that, had Respondent raised the need for additional time with Petitioner’s counsel in a timely fashion, it is likely that the parties would have been able to agree to a reasonable stipulated extension without involvement of the Board.

Respectfully submitted,

Date: August 15, 2011

/William G. Giltinan/
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Petitioner's Response to Respondent's Motion for Extension of Time to counsel at the following addresses:

Surjit P. Soni
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via First Class United States Mail, postage prepaid, and deposited with the United States Postal Service on August 15, 2011.

Dated: August 15, 2011

/William G. Giltinan/
William G. Giltinan